

FIRST REGULAR SESSION

# HOUSE BILL NO. 793

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BAKER.

1745H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal sections 116.100, 130.036, and 130.041, RSMo, and to enact in lieu thereof four new sections relating to campaign finance, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 116.100, 130.036, and 130.041, RSMo, are repealed and four  
2 new sections enacted in lieu thereof, to be known as sections 116.100, 130.036, 130.041, and  
3 130.190, to read as follows:

116.100. The secretary of state shall not accept any referendum petition submitted  
2 later than 5:00 p.m. on the final day for filing referendum petitions. The secretary of state  
3 shall not accept any initiative petition submitted later than 5:00 p.m. on the final day for filing  
4 initiative petitions. **All initiative petitions and referendums submitted shall be**  
5 **accompanied by a certification that no preliminary activity was funded by sources**  
6 **prohibited under the provisions of chapter 130 and that the proponents or campaign**  
7 **committee responsible for the initiative petition or referendum will not receive, solicit,**  
8 **or accept any contribution or expenditure from a source prohibited under the**  
9 **provisions of chapter 130.** All pages shall be submitted at one time. When an initiative or  
10 referendum petition is submitted to the secretary of state, the signature pages shall be in order  
11 and numbered sequentially by county, except in counties that include multiple congressional  
12 districts, the signatures may be ordered and numbered using an alternate numbering scheme  
13 approved in writing by the secretary of state prior to submission of the petition. Any petition  
14 that is not submitted in accordance with this section, disregarding clerical and merely  
15 technical errors, shall be rejected as insufficient. After verifying the count of signature pages,  
16 the secretary of state shall issue a receipt indicating the number of pages presented from each

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 county. When a person submits a petition he or she shall designate to the secretary of state the  
18 name and the address of the person to whom any notices shall be sent under sections 116.140  
19 and 116.180.

130.036. 1. The candidate, treasurer or deputy treasurer of a committee shall  
2 maintain accurate records and accounts on a current basis. The records and accounts shall be  
3 maintained in accordance with accepted normal bookkeeping procedures and shall contain the  
4 bills, receipts, deposit records, cancelled checks and other detailed information necessary to  
5 prepare and substantiate any statement or report required to be filed pursuant to this chapter.  
6 Every person who acts as an agent for a committee in receiving contributions, making  
7 expenditures or incurring indebtedness for the committee shall, on request of that committee's  
8 treasurer, deputy treasurer or candidate, but in any event within five days after any such  
9 action, render to the candidate, committee treasurer or deputy treasurer a detailed account  
10 thereof, including names, addresses, dates, exact amounts and any other details required by  
11 the candidate, treasurer or deputy treasurer to comply with this chapter. Notwithstanding the  
12 provisions of subsection 4 of section 130.021 prohibiting commingling of funds, an  
13 individual, trade or professional association, business entity, or labor organization which acts  
14 as an agent for a committee in receiving contributions may deposit contributions received on  
15 behalf of the committee to the agent's account within a financial institution within this state,  
16 for purposes of facilitating transmittal of the contributions to the candidate, committee  
17 treasurer or deputy treasurer. Such contributions shall not be held in the agent's account for  
18 more than five days after the date the contribution was received by the agent, and shall not be  
19 transferred to the account of any other agent or person, other than the committee treasurer.

20 2. Unless a contribution is rejected by the candidate or committee and returned to the  
21 donor or transmitted to the state treasurer within ten business days after its receipt, it shall be  
22 considered received and accepted on the date received, notwithstanding the fact that it was  
23 not deposited by the closing date of a reporting period.

24 3. Notwithstanding the provisions of section 130.041 that only contributors of more  
25 than one hundred dollars shall be reported by name and address for all committees, the  
26 committee's records shall contain a listing of each contribution received by the committee,  
27 including those accepted and those which are rejected and either returned to the donor or  
28 transmitted to the state treasurer. Each contribution, regardless of the amount, shall be  
29 recorded by date received, name and address of the contributor and the amount of the  
30 contribution, except that any contributions from unidentifiable persons which are received  
31 through fund-raising activities and events as permitted in subsection 6 of section 130.031  
32 shall be recorded to show the dates and amounts of all such contributions received together  
33 with information contained in statements required by subsection 6 of section 130.031. The  
34 procedure for recording contributions shall be of a type which enables the candidate,

35 committee treasurer or deputy treasurer to maintain a continuing total of all contributions  
36 received from any one contributor.

37 4. Notwithstanding the provisions of section 130.041 that certain expenditures need  
38 not be identified in reports by name and address of the payee, the committee's records shall  
39 include a listing of each expenditure made and each contract, promise or agreement to make  
40 an expenditure, showing the date and amount of each transaction, the name and address of the  
41 person to whom the expenditure was made or promised, and the purpose of each expenditure  
42 made or promised.

43 5. In the case of a committee which makes expenditures for both the support or  
44 opposition of any candidate and the passage or defeat of a ballot measure, the committee  
45 treasurer shall maintain records segregated according to each candidate or measure for which  
46 the expenditures were made.

47 6. Records shall indicate which transactions, either contributions received or  
48 expenditures made, were cash transactions or in-kind transactions.

49 7. Any candidate who, pursuant to section 130.016, is exempt from the requirements  
50 to form a committee shall maintain records of each contribution received or expenditure made  
51 in support of his candidacy. Any other person or combination of persons who, although not  
52 deemed to be a committee according to the definition of the term "committee" in section  
53 130.011, accepts contributions or makes expenditures, other than direct contributions from the  
54 person's own funds, for the purpose of supporting or opposing the election or defeat of any  
55 candidate or for the purpose of supporting or opposing the qualifications, passage or defeat of  
56 any ballot measure shall maintain records of each contribution received or expenditure made.  
57 The records shall include name, address and amount pertaining to each contribution received  
58 or expenditure made and any bills, receipts, cancelled checks or other documents relating to  
59 each transaction.

60 8. All records and accounts of receipts and expenditures shall be preserved for at least  
61 three years after the date of the election to which the records pertain. Records and accounts  
62 regarding supplemental disclosure reports or reports not required pursuant to an election shall  
63 be preserved for at least three years after the date of the report to which the records pertain.  
64 Such records shall be available for inspection by the campaign finance review board and its  
65 duly authorized representatives.

66 **9. For every contribution received, the treasurer shall obtain from the donor an**  
67 **affirmation that the donor is not a foreign national and has not knowingly or willfully**  
68 **accepted funds aggregating in excess of one hundred thousand dollars from sources**  
69 **prohibited under this chapter in the four-year period immediately preceding the date**  
70 **the contribution is made. The affirmation shall also require the donor to refrain from**  
71 **accepting funds aggregating one hundred thousand dollars or more from sources**

72 **prohibited under this chapter through the end of the calendar year in which the**  
73 **donation is made. For the purposes of this subsection, a foreign national shall have the**  
74 **same meaning as in section 130.190.**

130.041. 1. Except as provided in subsection 5 of section 130.016, the candidate, if  
2 applicable, treasurer or deputy treasurer of every committee which is required to file a  
3 statement of organization, shall file a legibly printed or typed disclosure report of receipts and  
4 expenditures. The reports shall be filed with the appropriate officer designated in section  
5 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in  
6 sections 130.049 and 130.050, each report shall set forth:

7 (1) The full name, as required in the statement of organization pursuant to subsection  
8 5 of section 130.021, and mailing address of the committee filing the report and the full name,  
9 mailing address and telephone number of the committee's treasurer and deputy treasurer if the  
10 committee has named a deputy treasurer;

11 (2) The amount of money, including cash on hand at the beginning of the reporting  
12 period;

13 (3) Receipts for the period, including:

14 (a) Total amount of all monetary contributions received which can be identified in the  
15 committee's records by name and address of each contributor. In addition, the candidate  
16 committee shall make a reasonable effort to obtain and report the employer, or occupation if  
17 self-employed or notation of retirement, of each person from whom the committee received  
18 one or more contributions which in the aggregate total in excess of one hundred dollars and  
19 shall make a reasonable effort to obtain and report a description of any contractual  
20 relationship over five hundred dollars between the contributor and the state if the candidate is  
21 seeking election to a state office or between the contributor and any political subdivision of  
22 the state if the candidate is seeking election to another political subdivision of the state;

23 (b) Total amount of all anonymous contributions accepted;

24 (c) Total amount of all monetary contributions received through fund-raising events  
25 or activities from participants whose names and addresses were not obtained with such  
26 contributions, with an attached statement or copy of the statement describing each fund-  
27 raising event as required in subsection 6 of section 130.031;

28 (d) Total dollar value of all in-kind contributions received;

29 (e) A separate listing by name and address and employer, or occupation if self-  
30 employed or notation of retirement, of each person from whom the committee received  
31 contributions, in money or any other thing of value, aggregating more than one hundred  
32 dollars, together with the date and amount of each such contribution;

33 (f) A listing of each loan received by name and address of the lender and date and  
34 amount of the loan. For each loan of more than one hundred dollars, a separate statement

35 shall be attached setting forth the name and address of the lender and each person liable  
36 directly, indirectly or contingently, and the date, amount and terms of the loan;

37 (4) Expenditures for the period, including:

38 (a) The total dollar amount of expenditures made by check drawn on the committee's  
39 depository;

40 (b) The total dollar amount of expenditures made in cash;

41 (c) The total dollar value of all in-kind expenditures made;

42 (d) The full name and mailing address of each person to whom an expenditure of  
43 money or any other thing of value in the amount of more than one hundred dollars has been  
44 made, contracted for or incurred, together with the date, amount and purpose of each  
45 expenditure. Expenditures of one hundred dollars or less may be grouped and listed by  
46 categories of expenditure showing the total dollar amount of expenditures in each category,  
47 except that the report shall contain an itemized listing of each payment made to campaign  
48 workers by name, address, date, amount and purpose of each payment and the aggregate  
49 amount paid to each such worker;

50 (e) A list of each loan made, by name and mailing address of the person receiving the  
51 loan, together with the amount, terms and date;

52 (5) The total amount of cash on hand as of the closing date of the reporting period  
53 covered, including amounts in depository accounts and in petty cash fund;

54 (6) The total amount of outstanding indebtedness as of the closing date of the  
55 reporting period covered;

56 (7) The amount of expenditures for or against a candidate or ballot measure during  
57 the period covered and the cumulative amount of expenditures for or against that candidate or  
58 ballot measure, with each candidate being listed by name, mailing address and office sought.  
59 For the purpose of disclosure reports, expenditures made in support of more than one  
60 candidate or ballot measure or both shall be apportioned reasonably among the candidates or  
61 ballot measure or both. In apportioning expenditures to each candidate or ballot measure,  
62 political party committees and continuing committees need not include expenditures for  
63 maintaining a permanent office, such as expenditures for salaries of regular staff, office  
64 facilities and equipment or other expenditures not designed to support or oppose any  
65 particular candidates or ballot measures; however, all such expenditures shall be listed  
66 pursuant to subdivision (4) of this subsection;

67 (8) A separate listing by full name and address of any committee including a  
68 candidate committee controlled by the same candidate for which a transfer of funds or a  
69 contribution in any amount has been made during the reporting period, together with the date  
70 and amount of each such transfer or contribution;

71 (9) A separate listing by full name and address of any committee, including a  
72 candidate committee controlled by the same candidate from which a transfer of funds or a  
73 contribution in any amount has been received during the reporting period, together with the  
74 date and amount of each such transfer or contribution;

75 (10) Each committee that receives a contribution which is restricted or designated in  
76 whole or in part by the contributor for transfer to a particular candidate, committee or other  
77 person shall include a statement of the name and address of that contributor in the next  
78 disclosure report required to be filed after receipt of such contribution, together with the date  
79 and amount of any such contribution which was so restricted or designated by that  
80 contributor, together with the name of the particular candidate or committee to whom such  
81 contribution was so designated or restricted by that contributor and the date and amount of  
82 such contribution;

83 **(11) An affirmation that the committee has not knowingly or willfully received,**  
84 **solicited, or accepted contributions or expenditures from a prohibited source.**

85 2. For the purpose of this section and any other section in this chapter except sections  
86 130.049 and 130.050 which requires a listing of each contributor who has contributed a  
87 specified amount, the aggregate amount shall be computed by adding all contributions  
88 received from any one person during the following periods:

89 (1) In the case of a candidate committee, the period shall begin on the date on which  
90 the candidate became a candidate according to the definition of the term "candidate" in  
91 section 130.011 and end at 11:59 p.m. on the day of the primary election, if the candidate has  
92 such an election or at 11:59 p.m. on the day of the general election. If the candidate has a  
93 general election held after a primary election, the next aggregating period shall begin at 12:00  
94 midnight on the day after the primary election day and shall close at 11:59 p.m. on the day of  
95 the general election. Except that for contributions received during the thirty-day period  
96 immediately following a primary election, the candidate shall designate whether such  
97 contribution is received as a primary election contribution or a general election contribution;

98 (2) In the case of a campaign committee, the period shall begin on the date the  
99 committee received its first contribution and end on the closing date for the period for which  
100 the report or statement is required;

101 (3) In the case of a political party committee or a continuing committee, the period  
102 shall begin on the first day of January of the year in which the report or statement is being  
103 filed and end on the closing date for the period for which the report or statement is required;  
104 except, if the report or statement is required to be filed prior to the first day of July in any  
105 given year, the period shall begin on the first day of July of the preceding year.

106 3. The disclosure report shall be signed and attested by the committee treasurer or  
107 deputy treasurer and by the candidate in case of a candidate committee.

108 4. The words "consulting or consulting services, fees, or expenses", or similar words,  
109 shall not be used to describe the purpose of a payment as required in this section. The  
110 reporting of any payment to such an independent contractor shall be on a form supplied by the  
111 appropriate officer, established by the ethics commission and shall include identification of  
112 the specific service or services provided including, but not limited to, public opinion polling,  
113 research on issues or opposition background, print or broadcast media production, print or  
114 broadcast media purchase, computer programming or data entry, direct mail production,  
115 postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for  
116 each service.

**130.190. 1. A foreign national shall not direct, dictate, control, or directly or  
2 indirectly participate in the decision-making process of any person with regard to that  
3 person's activities to influence a ballot initiative or referendum including, but not  
4 limited to, making contributions or expenditures supporting or opposing a ballot  
5 initiative or referendum.**

**6 2. A foreign national shall not solicit, directly or indirectly, the making of a  
7 donation, contribution, or expenditure by another person to support or oppose a ballot  
8 initiative or referendum.**

**9 3. Nothing in this section shall be deemed to create or eliminate any existing  
10 donor disclosure rights or duties.**

**11 4. As used in this section, the term "foreign national" shall mean:**

**12 (1) An individual who is not a citizen or lawful permanent resident of the United  
13 States;**

**14 (2) A government or subdivision of a foreign country or any municipality  
15 thereof;**

**16 (3) A foreign political party;**

**17 (4) Any entity that is organized under the laws of or has its principal place of  
18 business in a foreign country; or**

**19 (5) Any United States entity that is wholly or majority owned by a foreign  
20 national unless:**

**21 (a) Any contribution or expenditure it makes derives entirely from funds  
22 generated by the entity's operations in the United States; and**

**23 (b) All decisions concerning the contribution or expenditure, except for the  
24 amount of such contribution or expenditure, are made by individuals who are United  
25 States citizens or lawful permanent residents.**

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